

REMARKS

This is in response to the Official Action currently outstanding with regard to the present application, which Official Action the Examiner has designated as being FINAL.

Claims 30-42 were pending in this application at the time of the issuance of the currently outstanding Official Action. By the foregoing Amendment, Applicants propose the amendment of Claims 40 and 41 in order to correct an inadvertent word duplication therein. No claims are proposed to be canceled, added or withdrawn. Accordingly, Claims 30-42 as hereinabove amended will constitute the Claims under active prosecution in this application in the event that the Examiner grants the entry of the foregoing Amendment.

The claims of this application are reproduced above including indications of the changes made and appropriate status identifiers for convenience of reference as required by the Rules.

More particularly, in the currently outstanding Official Action the Examiner has:

1. Re-acknowledged Applicants' claim for foreign priority under 35 USC §119 (a)-(d) or (f), and confirmed the receipt of the required copies of the priority documents by the United States Patent and Trademark Office;
2. Again failed to indicate whether or not the drawings filed as part of this application on 3 September 2004 have been accepted – **Applicants respectfully request an indication from the Examiner regarding the acceptability of the drawings in response to this communication;**

3. Provided Applicants with a copy of the Form PTO-1449/PTO/SB/08a/b that accompanied their Information Disclosure Statement filed 3 May 2007 duly signed, dated and initialed in confirmation of the consideration of the documents listed therein.
4. Provided Applicant with a Notice of References Cited (Form PTO/892)
5. Provisionally rejected all of the presently pending claims, i.e., Claims 30-42, on the grounds of provisional nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-30 of US Patent Application No. 10/804,328. **In response to this ground for rejection Applicants are submitting herewith a Terminal Disclaimer to Obviate A Provisional Non-statutory Obviousness-type Double Patenting Rejection Under 37 CFR 1.321 (c) and respectfully submit that that submission overcomes the Examiner's provisional non-statutory obviousness-type double patenting rejection. A decision so holding is respectfully requested.**
6. Rejected Claims 30-40 (presumably meaning 42) under 35 USC 102(b) as being ~~anticipated by either the Cheong et al US Patent No. 6,961,300 or the Nakamura~~ Japanese Patent Publication 08-096412.

No further comment regarding items 1-4 above is deemed to be required in these Remarks.

With regard to item 5 above, Applicants respectfully note that Figure 1 of the Nakamura reference discloses an optical information recording medium having a two-layer structure comprising a mask layer 11 and a reflection layer 12 disposed on a substrate 10. However, the mask layer 11 of the Nakamura reference is made of a material of a so-called “photon mode” (i.e., a material in which the transmittance changes with the energy of the incoming light as is disclosed in paragraph [0010] of that document. Further, the Nakamura reference at paragraph [0017] mentions arsenic sulfide, As_2Se_3 , Ge_2Se_3 and the like as being the so-called “photon mode” material of the mask layer. Still further, the Abstract of the Nakamura reference is clearly indicative of the fact that the mask material is a composite wherein the so-called “photon mode” material is dispersed in a resin (i.e., a ferrocyanine or a phthalocyanine derivative dispersed in a resin).

The Cheong reference, on the other hand, mentions ZnO at column 6, line 9, but also specifically further discloses that ZnO is dispersed in a glass or resin in the context of that document (see, Column 6, lines 11 and 12). More specifically, therefore, the Cheong material is a so-called “photon mode” (composite film) material that is disclosed as being a film for so-called “super resolution reproduction” (see Column 6, lines 5 to 12) in a manner somewhat similar to the disclosure of the Nakamura reference.

The temperature sensitive film of the present Claims 30 to 33 (upon which the other claims depend), on the other hand, is a film whose refractive index changes according to temperature (i.e., a heat mode), and that film is disclosed in the present specification as being a film layer made of either ZnO or CeO₂, not a composite of one or the other of those materials dispersed in a resin or a glass. In this regard it is to be noted that neither of the cited references discloses a film layer made only of ZnO or only of CeO₂. Accordingly, for this reason alone, Applicants respectfully submit that the Examiner's currently outstanding anticipation rejection has been overcome. More specifically, the art cited and relied upon by the Examiner simply does not teach, disclose or suggest all of the claimed elements cooperating together as claimed so as to justify an anticipation rejection under 35 USC 102(b).

In addition, Applicants respectfully submit that it should be understood that a combination of the Cheong and Nakamura reference teachings merely would produce an optical information recording medium comprising a mask layer made of a composite film of so-called "photon mode" and a reflection layer. Such a structure is totally different from that of the present invention that comprises a temperature sensitive layer formed of CeO₂ or ZnO and a reflection layer formed on a substrate as discussed above.

Therefore, Applicants respectfully submit that Claim 30 of the present application is clearly different from the cited art in terms of structure, and hence that that claim is not anticipated by the art cited and relied upon by the Examiner.

Further, Applicants respectfully in addition submit that the temperature sensitive properties of the composite material of the Nakamura mask layer clearly are more difficult to control than are the temperature sensitive properties of the CeO₂ or ZnO layer of the present claims.

Still further, Applicants respectfully submit that the so-called “photon mode” composite dispersion films of both the Nakamura and the Cheong reference need to disperse ZnO disclosed therein evenly in the glass or resin base material thereof. This is because all optical disks need to have uniform reproducing characteristics in the respective reproducing regions. At the very least, therefore, this requirement increase the production cost of the Nakamura and the Cheong materials as compared with the CeO₂ and ZnO layers disclosed and claimed in the present application.

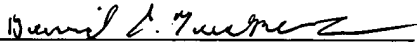
In summary, Applicants respectfully submit that the use of either ZnO or CeO₂ as a single film layer renders a reproduction medium made in accordance with the present invention less expensive and easier to control than a reproduction medium made in accordance with either one of the cited references. In particular, it is to be understood that these effects are specific to the disclosure of the present invention and are nowhere taught, disclosed or suggested by the art relied upon by the Examiner.

Accordingly, Applicants respectfully submit that neither of the references cited by the Examiner as anticipating Claims 30-42 is sufficient to disclose the present invention as now claimed. A decision so holding in response to this communication is respectfully requested.

Finally, Applicants also believe that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. 04-1105, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

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SIGNATURE OF PRACTITIONER

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